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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/549,617	09/20/2005	Thomas Gostelow	0119/0047	8144	
21395 LOUIS WOO	7590 06/04/200	7	EXAM	EXAMINER	
LAW OFFICE OF LOUIS			DOUGLAS, STEVEN O		
ALEXANDRIA	AYETTE STREET A, VA 22314		ART UNIT	PAPER NUMBER	
			3771		
			MAIL DATE	DELIVERY MODE	
			06/04/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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	Application No.	Applicant(s)				
	10/549,617	GOSTELOW, THOMAS				
Office Action Summary	Examiner	Art Unit				
•	Steven O. Douglas	3771				
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with	the correspondence address	•			
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DATE of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period value of the provision of the p	ATE OF THIS COMMUNIC 36(a). In no event, however, may a rep will apply and will expire SIX (6) MONT cause the application to become ABA	ATION. Dly be timely filed HS from the mailing date of this communical NDONED (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 22 M	arch 2007.		•			
	action is non-final.	·				
3) Since this application is in condition for allowar	S) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under E	x parte Quayle, 1935 C.D.	11, 453 O.G. 213.				
Disposition of Claims						
4)⊠ Claim(s) 1 and 3-10 is/are pending in the appli	cation		•			
4a) Of the above claim(s) is/are withdraw	•	÷				
5) Claim(s) is/are allowed.		•				
6)⊠ Claim(s) <u>1 and 3-9</u> is/are rejected.						
7)⊠ Claim(s) 10 is/are objected to.		•				
8) Claim(s) are subject to restriction and/o	r election requirement.					
Application Papers						
9) The specification is objected to by the Examine		, the Eveniner				
	The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).					
Replacement drawing sheet(s) including the correct	• • • • • • • • • • • • • • • • • • • •		1/d\			
11) The oath or declaration is objected to by the Ex	T.	•				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:	priority under 35 U.S.C. §	119(a)-(d) or (f).				
,- <u> </u>						
	<u> </u>					
3. Copies of the certified copies of the prior		•				
application from the International Bureau	•					
* See the attached detailed Office action for a list	of the certified copies not r	eceived.				
•						
	·					
Attachment(s)	4\ □ !=+==:t=:::	immoni (PTO 442)				
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)		ımmary (PTO-413) /Mail Date				
3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date		ormal Patent Application				

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1,3-6,8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arkinstall'852 in view of McCoy'242.

The Arkinstall reference discloses a tracheostomy device (see Figure 1-3) comprising a tubular member 12, an internal retainer 68 and an external retainer 14, but does not disclose a gas seal for substantially sealing the trachea above the opening against the flow of gas, as claimed. The McCoy reference discloses another trachea device that utilizes a seal 21 above the opening into the trachea for the collection secretions that accumulate so that such secretions do not interfere with the tracheostomy device (see col. 3, lines 1-21; and col. 6, line 61 through col. 7, line 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Arkinstall device to utilize a gas seal for substantially sealing the trachea above the opening against the flow of gas in view of the teachings of the McCoy'242 reference for the collection secretions that accumulate so that such secretions do not interfere with the tracheostomy device (see col. 3, lines 1-21; and col. 6, line 61 through col. 7, line 5).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arkinstall in view of McCoy as applied to claim 5 above, and further in view of Augustine.

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The Arkinstall and McCoy teach a trachea device substantially as claimed, but does not disclose the seal as including resilient foam. The Augustine reference discloses another trachea device with sealing parts that are made of resilient foam to facilitate a good low pressure seal. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the seal of the Arkinstall/McCoy device of a resilient foam in view of the teachings of the Augustine reference to facilitate a good low pressure seal.

Allowable Subject Matter

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven O. Douglas whose telephone number is (571) 272-4885. The examiner can normally be reached on Mon-Thurs 6:30-5:00.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

5/15/09

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571/272-1000.

Steven B. Douglas Primary Examiner

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SD

5/15/07